

AMENDED IN ASSEMBLY SEPTEMBER 2, 2005

AMENDED IN ASSEMBLY AUGUST 25, 2005

AMENDED IN ASSEMBLY AUGUST 23, 2005

AMENDED IN ASSEMBLY AUGUST 17, 2005

AMENDED IN ASSEMBLY AUGUST 15, 2005

AMENDED IN ASSEMBLY JULY 7, 2005

AMENDED IN SENATE MAY 27, 2005

AMENDED IN SENATE APRIL 25, 2005

AMENDED IN SENATE APRIL 18, 2005

SENATE BILL

No. 954

Introduced by Senators Figueroa and Dutton

February 22, 2005

An act to add Sections 12103.5, 12104, and 12104.5 to the Public Contract Code, relating to public contracts, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 954, as amended, Figueroa. Information technology goods and services: procurement.

Existing law sets forth the requirements for the acquisition of information technology goods and services by the state, and requires all contracts for the acquisition of those goods and services to be made by or under the supervision of the Department of General Services, with expenditures in this regard subject to the review and approval of the Department of Finance.

This bill makes certain findings regarding the manner in which state agencies procure information technology goods and services. This bill would require the Department of General Services, on or before January 1, 2007, to develop policies and guidelines for the procurement of information technology goods and services, including identifying and documenting information for requests for proposals, publishing policies regarding obtaining bids for and acquiring information technology, establishing a centralized entity responsible for information technology procurement methods within the Department of General Services, developing uniform standards, with at least 2 public hearings, for information technology procurement, and communicating rules and requirements to vendors and the general public.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) The State of California depends on information technology
- 4 goods and services to accomplish its legally mandated core
- 5 business functions and public services and it is in the best interest
- 6 of the state to procure these services according to best practices,
- 7 thereby rationalizing the process and providing a consistent basis
- 8 for communication and decisionmaking.
- 9 (b) Information technology improves the functioning of
- 10 government by providing increased public access and enhanced
- 11 customer service.
- 12 (c) Conducting business with technology industry vendors in a
- 13 professional manner with an attitude of cooperative, direct, and
- 14 straightforward communication serves the best interests of the
- 15 State of California and its citizens for the following reasons:
- 16 (1) Vendors can better respond to the state if published
- 17 business and technical requirements are clear.
- 18 (2) An efficient and effective procurement process saves the
- 19 state valuable dollars and time, mitigating overall project risk
- 20 long term.

1 (d) Information technology goods and services are complex
2 and multidimensional. The implementation of new technology
3 invariably impacts existing technology, dependent and
4 independent information technology systems, governmental
5 business processes, operational expectations and outcomes, and
6 future technical and operations choices for the functions of a
7 governmental entity. Purchases, therefore, should be considered
8 in the appropriate context with a total cost of ownership for the
9 state.

10 (e) New information systems that require information
11 technology goods and services for their implementation should
12 be conceived in terms of a “solution.” Thinking and planning
13 according to an information technology “solution” mindset
14 appropriately considers the complete set of information
15 technology goods and services required to complete an objective
16 or set of objectives in the context of the actual business needs of
17 the purchasing state agency. This also provides a means with
18 which to consider the overall purchasing decision and weigh the
19 benefits of different information technology options according to
20 the total cost of ownership for the state.

21 SEC. 2. Section 12103.5 is added to the Public Contract
22 Code, to read:

23 12103.5. Beginning January 1, 2007, for those information
24 technology purchases for which the department determines that a
25 request for proposal (RFP) is appropriate, the department shall
26 identify and document the following, with respect to information
27 technology procurements, prior to releasing the RFP:

28 (a) Identify the legislative mandate, state business, or
29 operational reason for the information technology procurement.

30 (b) Identify the existing business processes currently used to
31 accomplish the legislative mandate, state business, or operational
32 reason.

33 (c) Identify the most important priorities for the information
34 technology project to accomplish.

35 (d) Identify what current technology is being used and how it
36 is being used.

37 (e) If the data used in a proposed information technology
38 system comes from multiple sources, identify the existing
39 business processes or technical systems that produce and
40 maintain the source data to ensure interoperability.

(f) Identify how the new information technology project leverages existing technology investments while accomplishing its business objectives.

SEC. 3. Section 12104 is added to the Public Contract Code, to read:

12104. (a) (1) Commencing on or before January 1, 2007, the State Contracting Manual shall set forth all policies, procedures, and methods that shall be used by the department when seeking to obtain bids for the acquisition of information technology, including any policies contained in the State Administrative Manual.

(2) Revisions to the manual must be publicly announced, including, but not limited to, postings on the department's Internet homepage.

(b) On or before January 1, 2007, the department shall designate a single entity within the department that shall be solely responsible for the development, implementation, and maintenance of standardized methods for the development of information technology requests for proposals.

(c) Commencing on or before January 1, 2007, all information technology requests for proposals shall be reviewed by the Office of Legal Services prior to release to the public.

(d) (1) On or before January 1, 2007, the department, in consultation with a representative from the Department of Technology Services, the Department of Finance, the Senate, and the Assembly, along with representatives from the information technology industry, shall issue a management memorandum setting forth uniform standards for information technology procurement. The management memorandum shall prioritize how the technology will advance the public policy purpose of the state program that the information technology will serve over the department's or client's preference for a particular information product design. Prior to issuing the management memorandum, the department shall hold at least two public hearings on the standards that are proposed to be included in the management memorandum.

(2) *The management memorandum issued pursuant to paragraph (1) shall not apply to procurements necessary to meet the requirements of the Department of Justice Hawkins Data Center.*

1 SEC. 4. Section 12104.5 is added to the Public Contract
2 Code, to read:

3 12104.5. (a) All rules and requirements governing an
4 information technology acquisition, for which the department
5 determines that a request for proposal (RFP) is appropriate, shall
6 be communicated in writing to all vendors that have expressed an
7 intent to bid and shall be posted in a public location. Any
8 changes to the rules and requirements governing that RFP shall
9 be communicated in writing to all vendors that have expressed an
10 intent to bid and shall be posted in a public location. No
11 requirements other than those provided by law or outside of the
12 published RFP and posted addendums shall be used by the
13 department to score bids.

14 (b) The requirements of this section shall be in addition to any
15 other requirement provided by law.

16 SEC. 5. This act is an urgency statute necessary for the
17 immediate preservation of the public peace, health, or safety
18 within the meaning of Article IV of the Constitution and shall go
19 into immediate effect. The facts constituting the necessity are:

20 In order to protect the integrity of California's information
21 technology procurement practices, and to ensure that the state is
22 not wasting resources on poorly designed technology investments
23 that may fail to perform in critical state health and safety
24 programs, it is necessary that this act take effect immediately.